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CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to drug court programs; amending s.
7 39.001, F.S.; providing additional legislative purposes
8 and intent with respect to the treatment of substance
9 abuse, including the use of the drug court program model;
10 authorizing the court to require certain persons to
11 undergo treatment following adjudication; providing that
12 the court is not precluded from ordering drug testing;
13 amending ss. 39.402 and 39.407, F.S.; authorizing the
14 court to order specified persons to submit to a substance
15 abuse assessment upon a showing of good cause in
16 connection with a shelter hearing or petition for
17 dependency; amending ss. 39.507 and 39.521, F.S.;
18 authorizing the court to order specified persons to submit
19 to a substance abuse assessment as part of an adjudicatory
20 order or pursuant to a disposition hearing; requiring a
21 showing of good cause; authorizing the court to require
22 participation in a treatment-based drug court program;
23 authorizing the court to impose sanctions for

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24 noncompliance; amending s. 39.701, F.S.; authorizing the
25 court to extend the time for completing a case plan during
26 judicial review, based upon participation in a treatment-
27 based drug court program; amending s. 397.334, F.S.;
28 revising legislative intent with respect to treatment-
29 based drug court programs to reflect participation by
30 community support agencies, the Department of Education,
31 and other individuals; including postadjudicatory programs
32 as part of treatment-based drug court programs; providing
33 requirements and sanctions, including clinical placement
34 or incarceration, for the coordinated strategy developed
35 by the drug court team to encourage participant
36 compliance; requiring each judicial circuit to establish a
37 position for a coordinator of the treatment-based drug
38 court program, subject to annual appropriation by the
39 Legislature; authorizing the chief judge of each judicial
40 circuit to appoint an advisory committee for the
41 treatment-based drug court program; providing for
42 membership of the committee; revising language with
43 respect to an annual report; amending s. 910.035, F.S.;
44 revising language with respect to conditions for the
45 transfer of a case in the drug court treatment program to
46 a county other than that in which the charge arose;
47 amending ss. 948.08, 948.16, and 985.306, F.S., relating
48 to felony, misdemeanor, and delinquency pretrial substance
49 abuse education and treatment intervention programs;
50 providing requirements and sanctions, including clinical
51 placement or incarceration, for the coordinated strategy

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developed by the drug court team to encourage participant compliance and removing provisions authorizing appointment of an advisory committee, to conform to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 39.001, Florida Statutes, is amended to read:

39.001 Purposes and intent; personnel standards and screening.--

(4) SUBSTANCE ABUSE SERVICES.--

(a) The Legislature recognizes that substance abuse is a primary cause of the dramatic rise in cases of child abuse and neglect, immeasurably increases the complexity of cases in the dependency system, severely compromises or destroys the ability of parents to provide a safe and nurturing home for children, and severely confounds the dependency system's ability to protect children. The Legislature also recognizes that early referral and comprehensive treatment can help combat substance abuse in families and that treatment is cost effective. The Legislature further recognizes that treatment-based drug court program models that integrate judicial supervision, treatment, accountability, sanctions, and community support greatly increase the effectiveness of substance abuse treatment and reduce the number of cases of child abuse and neglect.

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78 (b) The substance abuse treatment and family safety
79 programs of the Department of Children and Family Services have
80 identified the following goals for the state:

81 1. To ensure the safety of children.

82 2. To prevent and remediate the consequences of substance
83 abuse on families involved in protective supervision or foster
84 care and reduce substance abuse, including alcohol abuse, for
85 families who are at risk of being involved in protective
86 supervision or foster care.

87 3. To expedite permanency for children and reunify
88 healthy, intact families, when appropriate.

89 4. To support families in recovery.

90 (c) The Legislature finds that children in the care of the
91 state's dependency system need appropriate health care services,
92 that the impact of substance abuse on health indicates the need
93 for health care services to include substance abuse services to
94 children and parents where appropriate, and that it is in the
95 state's best interest that such children be provided the
96 services they need to enable them to become and remain
97 independent of state care. In order to provide these services,
98 the state's dependency system must have the ability to identify
99 and provide appropriate intervention and treatment for children
100 with personal or family-related substance abuse problems.

101 (d) It is the intent of the Legislature to encourage the
102 court to support the drug court program model by assessing
103 parents and children to identify and address substance abuse
104 problems as the court deems appropriate at every stage of the
105 dependency process. Participation in treatment, including a

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treatment-based drug court program, may be required by the court following adjudication. This subsection does not prevent a child's parents and, when appropriate, the legal custodian from voluntarily entering treatment, including a treatment-based drug court program, at the earliest stage of the process. Nothing in this subsection precludes a court from ordering drug testing where substance abuse is suspected to determine the safety of the placement of a child with a caretaker.

(e) It is therefore the purpose of the Legislature to provide authority for the state to contract with community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency system, which will be fully implemented and used utilized as resources permit.

(f) It is the intent of the Legislature to encourage the Department of Children and Family Services, in conjunction with community agencies; treatment-based facilities; facilities dedicated to child welfare, child development, and mental health services; the Department of Health; other similar agencies; local governments; law enforcement agencies; and other interested public or private sources to support the drug court program model. Participation in the treatment-based drug court program does not divest any public or private agency of its responsibility for a child or adult, but enables these agencies to better meet their needs through shared responsibility and resources.

Section 2. Subsections (11) through (16) of section 39.402, Florida Statutes, are renumbered as subsections (12)

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134 through (17), respectively, and a new subsection (11) is added
135 to said section to read:

136 39.402 Placement in a shelter.--

137 (11) At the shelter hearing, the court may order the child
138 or a person requesting custody of the child to submit to a
139 substance abuse assessment or evaluation. The assessment or
140 evaluation must be administered by a qualified professional, as
141 defined in s. 397.311. The order may be made only upon good
142 cause shown.

143 Section 3. Section 39.407, Florida Statutes, is amended to
144 read:

145 39.407 Medical, psychiatric, and psychological examination
146 and treatment of child; physical, ~~or~~ mental, or substance abuse
147 examination of parent or person requesting custody of child.--

148 (1) When any child is removed from the home and maintained
149 in an out-of-home placement, the department is authorized to
150 have a medical screening performed on the child without
151 authorization from the court and without consent from a parent
152 or legal custodian. Such medical screening shall be performed by
153 a licensed health care professional and shall be to examine the
154 child for injury, illness, and communicable diseases and to
155 determine the need for immunization. The department shall by
156 rule establish the invasiveness of the medical procedures
157 authorized to be performed under this subsection. In no case
158 does this subsection authorize the department to consent to
159 medical treatment for such children.

160 (2) When the department has performed the medical
161 screening authorized by subsection (1), or when it is otherwise

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determined by a licensed health care professional that a child who is in an out-of-home placement, but who has not been committed to the department, is in need of medical treatment, including the need for immunization, consent for medical treatment shall be obtained in the following manner:

(a)1. Consent to medical treatment shall be obtained from a parent or legal custodian of the child; or

2. A court order for such treatment shall be obtained.

(b) If a parent or legal custodian of the child is unavailable and his or her whereabouts cannot be reasonably ascertained, and it is after normal working hours so that a court order cannot reasonably be obtained, an authorized agent of the department shall have the authority to consent to necessary medical treatment, including immunization, for the child. The authority of the department to consent to medical treatment in this circumstance shall be limited to the time reasonably necessary to obtain court authorization.

(c) If a parent or legal custodian of the child is available but refuses to consent to the necessary treatment, including immunization, a court order shall be required unless the situation meets the definition of an emergency in s. 743.064 or the treatment needed is related to suspected abuse, abandonment, or neglect of the child by a parent, caregiver, or legal custodian. In such case, the department shall have the authority to consent to necessary medical treatment. This authority is limited to the time reasonably necessary to obtain court authorization.

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190 In no case shall the department consent to sterilization,
191 abortion, or termination of life support.

192 (3)(a) A judge may order a child in an out-of-home
193 placement to be examined by a licensed health care professional.

194 (b) The judge may also order such child to be evaluated by
195 a psychiatrist or a psychologist or, if a developmental
196 disability is suspected or alleged, by the developmental
197 disability diagnostic and evaluation team of the department. If
198 it is necessary to place a child in a residential facility for
199 such evaluation, the criteria and procedure established in s.
200 394.463(2) or chapter 393 shall be used, whichever is
201 applicable.

202 (c) The judge may also order such child to be evaluated by
203 a district school board educational needs assessment team. The
204 educational needs assessment provided by the district school
205 board educational needs assessment team shall include, but not
206 be limited to, reports of intelligence and achievement tests,
207 screening for learning disabilities and other handicaps, and
208 screening for the need for alternative education as defined in
209 s. 1001.42.

210 (4) A judge may order a child in an out-of-home placement
211 to be treated by a licensed health care professional based on
212 evidence that the child should receive treatment. The judge may
213 also order such child to receive mental health or developmental
214 disabilities services from a psychiatrist, psychologist, or
215 other appropriate service provider. Except as provided in
216 subsection (5), if it is necessary to place the child in a
217 residential facility for such services, the procedures and

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criteria established in s. 394.467 or chapter 393 shall be used, whichever is applicable. A child may be provided developmental disabilities or mental health services in emergency situations, pursuant to the procedures and criteria contained in s. 394.463(1) or chapter 393, whichever is applicable.

(5) Children who are in the legal custody of the department may be placed by the department, without prior approval of the court, in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395 for residential mental health treatment only pursuant to this section or may be placed by the court in accordance with an order of involuntary examination or involuntary placement entered pursuant to s. 394.463 or s. 394.467. All children placed in a residential treatment program under this subsection must have a guardian ad litem appointed.

(a) As used in this subsection, the term:

1. "Residential treatment" means placement for observation, diagnosis, or treatment of an emotional disturbance in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395.

2. "Least restrictive alternative" means the treatment and conditions of treatment that, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit or to protect the child or adolescent or others from physical injury.

3. "Suitable for residential treatment" or "suitability" means a determination concerning a child or adolescent with an emotional disturbance as defined in s. 394.492(5) or a serious

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emotional disturbance as defined in s. 394.492(6) that each of the following criteria is met:

a. The child requires residential treatment.

b. The child is in need of a residential treatment program and is expected to benefit from mental health treatment.

c. An appropriate, less restrictive alternative to residential treatment is unavailable.

(b) Whenever the department believes that a child in its legal custody is emotionally disturbed and may need residential treatment, an examination and suitability assessment must be conducted by a qualified evaluator who is appointed by the Agency for Health Care Administration. This suitability assessment must be completed before the placement of the child in a residential treatment center for emotionally disturbed children and adolescents or a hospital. The qualified evaluator must be a psychiatrist or a psychologist licensed in Florida who has at least 3 years of experience in the diagnosis and treatment of serious emotional disturbances in children and adolescents and who has no actual or perceived conflict of interest with any inpatient facility or residential treatment center or program.

(c) Before a child is admitted under this subsection, the child shall be assessed for suitability for residential treatment by a qualified evaluator who has conducted a personal examination and assessment of the child and has made written findings that:

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272 1. The child appears to have an emotional disturbance
273 serious enough to require residential treatment and is
274 reasonably likely to benefit from the treatment.

275 2. The child has been provided with a clinically
276 appropriate explanation of the nature and purpose of the
277 treatment.

278 3. All available modalities of treatment less restrictive
279 than residential treatment have been considered, and a less
280 restrictive alternative that would offer comparable benefits to
281 the child is unavailable.

282
283 A copy of the written findings of the evaluation and suitability
284 assessment must be provided to the department and to the
285 guardian ad litem, who shall have the opportunity to discuss the
286 findings with the evaluator.

287 (d) Immediately upon placing a child in a residential
288 treatment program under this section, the department must notify
289 the guardian ad litem and the court having jurisdiction over the
290 child and must provide the guardian ad litem and the court with
291 a copy of the assessment by the qualified evaluator.

292 (e) Within 10 days after the admission of a child to a
293 residential treatment program, the director of the residential
294 treatment program or the director's designee must ensure that an
295 individualized plan of treatment has been prepared by the
296 program and has been explained to the child, to the department,
297 and to the guardian ad litem, and submitted to the department.
298 The child must be involved in the preparation of the plan to the
299 maximum feasible extent consistent with his or her ability to

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understand and participate, and the guardian ad litem and the child's foster parents must be involved to the maximum extent consistent with the child's treatment needs. The plan must include a preliminary plan for residential treatment and aftercare upon completion of residential treatment. The plan must include specific behavioral and emotional goals against which the success of the residential treatment may be measured. A copy of the plan must be provided to the child, to the guardian ad litem, and to the department.

(f) Within 30 days after admission, the residential treatment program must review the appropriateness and suitability of the child's placement in the program. The residential treatment program must determine whether the child is receiving benefit toward the treatment goals and whether the child could be treated in a less restrictive treatment program. The residential treatment program shall prepare a written report of its findings and submit the report to the guardian ad litem and to the department. The department must submit the report to the court. The report must include a discharge plan for the child. The residential treatment program must continue to evaluate the child's treatment progress every 30 days thereafter and must include its findings in a written report submitted to the department. The department may not reimburse a facility until the facility has submitted every written report that is due.

(g)1. The department must submit, at the beginning of each month, to the court having jurisdiction over the child, a

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327 written report regarding the child's progress toward achieving
328 the goals specified in the individualized plan of treatment.

329 2. The court must conduct a hearing to review the status
330 of the child's residential treatment plan no later than 3 months
331 after the child's admission to the residential treatment
332 program. An independent review of the child's progress toward
333 achieving the goals and objectives of the treatment plan must be
334 completed by a qualified evaluator and submitted to the court
335 before its 3-month review.

336 3. For any child in residential treatment at the time a
337 judicial review is held pursuant to s. 39.701, the child's
338 continued placement in residential treatment must be a subject
339 of the judicial review.

340 4. If at any time the court determines that the child is
341 not suitable for continued residential treatment, the court
342 shall order the department to place the child in the least
343 restrictive setting that is best suited to meet his or her
344 needs.

345 (h) After the initial 3-month review, the court must
346 conduct a review of the child's residential treatment plan every
347 90 days.

348 (i) The department must adopt rules for implementing
349 timeframes for the completion of suitability assessments by
350 qualified evaluators and a procedure that includes timeframes
351 for completing the 3-month independent review by the qualified
352 evaluators of the child's progress toward achieving the goals
353 and objectives of the treatment plan which review must be
354 submitted to the court. The Agency for Health Care

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Administration must adopt rules for the registration of qualified evaluators, the procedure for selecting the evaluators to conduct the reviews required under this section, and a reasonable, cost-efficient fee schedule for qualified evaluators.

(6) When a child is in an out-of-home placement, a licensed health care professional shall be immediately called if there are indications of physical injury or illness, or the child shall be taken to the nearest available hospital for emergency care.

(7) Except as otherwise provided herein, nothing in this section shall be deemed to eliminate the right of a parent, legal custodian, or the child to consent to examination or treatment for the child.

(8) Except as otherwise provided herein, nothing in this section shall be deemed to alter the provisions of s. 743.064.

(9) A court shall not be precluded from ordering services or treatment to be provided to the child by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a church or religious organization, when required by the child's health and when requested by the child.

(10) Nothing in this section shall be construed to authorize the permanent sterilization of the child unless such sterilization is the result of or incidental to medically necessary treatment to protect or preserve the life of the child.

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(11) For the purpose of obtaining an evaluation or examination, or receiving treatment as authorized pursuant to this section, no child alleged to be or found to be dependent shall be placed in a detention home or other program used primarily for the care and custody of children alleged or found to have committed delinquent acts.

(12) The parents or legal custodian of a child in an out-of-home placement remain financially responsible for the cost of medical treatment provided to the child even if either one or both of the parents or if the legal custodian did not consent to the medical treatment. After a hearing, the court may order the parents or legal custodian, if found able to do so, to reimburse the department or other provider of medical services for treatment provided.

(13) Nothing in this section alters the authority of the department to consent to medical treatment for a dependent child when the child has been committed to the department and the department has become the legal custodian of the child.

(14) At any time after the filing of a shelter petition or petition for dependency, when the mental or physical condition, including the blood group, of a parent, caregiver, legal custodian, or other person requesting custody of a child is in controversy, the court may order the person to submit to a physical or mental examination by a qualified professional. The order may be made only upon good cause shown and pursuant to notice and procedures as set forth by the Florida Rules of Juvenile Procedure.

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409 (15) At any time after a shelter petition or petition for
410 dependency is filed, the court may order a child or a person
411 requesting custody of the child, if it has not already done so,
412 to submit to a substance abuse assessment and evaluation. The
413 assessment or evaluation must be administered by a qualified
414 professional, as defined in s. 397.311. The order may be made
415 only upon good cause shown.

416 Section 4. Subsection (9) is added to section 39.507,
417 Florida Statutes, to read:

418 39.507 Adjudicatory hearings; orders of adjudication.--

419 (9) The court may order a child or a person requesting
420 custody of the child, if it has not already done so, to submit
421 to a substance abuse assessment or evaluation. The assessment or
422 evaluation must be administered by a qualified professional, as
423 defined in s. 397.311. The court may also require such person to
424 participate in and comply with treatment and services identified
425 as necessary, including, when appropriate and available,
426 participation in and compliance with a treatment-based drug
427 court program. The court, including the treatment-based drug
428 court program, shall oversee the progress and compliance with
429 treatment by the child or a person requesting custody of the
430 child and shall impose appropriate available sanctions for
431 noncompliance upon the child or a person requesting custody of
432 the child. Any order entered under this subsection may be made
433 only upon good cause shown.

434 Section 5. Paragraph (b) of subsection (1) of section
435 39.521, Florida Statutes, is amended to read:

436 39.521 Disposition hearings; powers of disposition.--

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437 (1) A disposition hearing shall be conducted by the court,
438 if the court finds that the facts alleged in the petition for
439 dependency were proven in the adjudicatory hearing, or if the
440 parents or legal custodians have consented to the finding of
441 dependency or admitted the allegations in the petition, have
442 failed to appear for the arraignment hearing after proper
443 notice, or have not been located despite a diligent search
444 having been conducted.

445 (b) When any child is adjudicated by a court to be
446 dependent, the court having jurisdiction of the child has the
447 power by order to:

448 1. Require the parent and, when appropriate, the legal
449 custodian and the child, to participate in treatment and
450 services identified as necessary. The court may require a child
451 or a person requesting custody of the child to submit to a
452 substance abuse assessment or evaluation. The assessment or
453 evaluation must be administered by a qualified professional, as
454 defined in s. 397.311. The court may also require such person to
455 participate in and comply with treatment and services identified
456 as necessary, including participation in and compliance with a
457 treatment-based drug court program, when appropriate and if
458 available. The court, including the treatment-based drug court
459 program, shall oversee the progress and compliance with
460 treatment by the child or a person requesting custody of the
461 child and shall impose appropriate available sanctions for
462 noncompliance upon the child or a person requesting custody of
463 the child. Any order entered under this subparagraph may be made
464 only upon good cause shown.

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2. Require, if the court deems necessary, the parties to participate in dependency mediation.

3. Require placement of the child either under the protective supervision of an authorized agent of the department in the home of one or both of the child's parents or in the home of a relative of the child or another adult approved by the court, or in the custody of the department. Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. Protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, another relative, or a legal custodian, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. Upon the court's termination of supervision by the department, no further judicial reviews are required, so long as permanency has been established for the child.

Section 6. Paragraph (d) of subsection (9) of section 39.701, Florida Statutes, is amended to read:

39.701 Judicial review.--

(9)

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(d) The court may extend the time limitation of the case plan, or may modify the terms of the plan, which, in addition to other modifications, may include a requirement that the parent, foster parent, or legal custodian participate in a treatment-based drug court program, based upon information provided by the social service agency, and the guardian ad litem, if one has been appointed, the parent or parents, and the foster parents or legal custodian, and any other competent information on record demonstrating the need for the amendment. If the court extends the time limitation of the case plan, the court must make specific findings concerning the frequency of past parent-child visitation, if any, and the court may authorize the expansion or restriction of future visitation. Modifications to the plan must be handled as prescribed in s. 39.601. Any extension of a case plan must comply with the time requirements and other requirements specified by this chapter.

Section 7. Section 397.334, Florida Statutes, is amended to read:

397.334 Treatment-based drug court programs.--

(1) Each county may fund a treatment-based drug court program under which persons in the justice system assessed with a substance abuse problem will be processed in such a manner as to appropriately address the severity of the identified substance abuse problem through treatment services ~~plans~~ tailored to the individual needs of the participant. It is the intent of the Legislature to encourage the Department of Corrections, the Department of Children and Family Services, the Department of Juvenile Justice, the Department of Health, the

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Department of Law Enforcement, the Department of Education, and such ~~other~~ agencies, local governments, law enforcement agencies, ~~and~~ other interested public or private sources, and individuals to support the creation and establishment of these problem-solving court programs. Participation in the treatment-based drug court programs does not divest any public or private agency of its responsibility for a child or adult, but enables ~~allows~~ these agencies to better meet their needs through shared responsibility and resources.

(2) The treatment-based drug court programs shall include therapeutic jurisprudence principles and adhere to the following 10 key components, recognized by the Drug Courts Program Office of the Office of Justice Programs of the United States Department of Justice and adopted by the Florida Supreme Court Treatment-Based Drug Court Steering Committee:

(a) Drug court programs integrate alcohol and other drug treatment services with justice system case processing.

(b) Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.

(c) Eligible participants are identified early and promptly placed in the drug court program.

(d) Drug court programs provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.

(e) Abstinence is monitored by frequent testing for alcohol and other drugs.

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547 (f) A coordinated strategy governs drug court program
548 responses to participants' compliance.

549 (g) Ongoing judicial interaction with each drug court
550 program participant is essential.

551 (h) Monitoring and evaluation measure the achievement of
552 program goals and gauge program effectiveness.

553 (i) Continuing interdisciplinary education promotes
554 effective drug court program planning, implementation, and
555 operations.

556 (j) Forging partnerships among drug court programs, public
557 agencies, and community-based organizations generates local
558 support and enhances drug court program effectiveness.

559 (3) Treatment-based drug court programs may include
560 pretrial intervention programs as provided in ss. 948.08,
561 948.16, and 985.306, postadjudicatory programs, and the
562 monitoring of sentenced offenders through a treatment-based drug
563 court program. Supervision may also be provided for offenders
564 who transfer from jail or a prison-based treatment program into
565 the community. While enrolled in any pretrial intervention
566 program, the participant is subject to a coordinated strategy
567 developed by the drug court team under paragraph (2)(f). Each
568 coordinated strategy must include a protocol of sanctions that
569 may be imposed upon the participant. The protocol of sanctions
570 must include as available options placement in a secure licensed
571 clinical or jail-based treatment program or serving a period of
572 incarceration for noncompliance with program rules within the
573 limits established for contempt of court. The coordinated

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strategy must be provided in writing to the participant at the time the participant enters into a pretrial drug court program.

(4) Contingent upon an annual appropriation by the Legislature, each judicial circuit shall establish, at a minimum, one coordinator position for the treatment-based drug court program within the state courts system to coordinate the responsibilities of the participating agencies and service providers. Each coordinator shall provide direct support to the treatment-based drug court program by providing coordination between the multidisciplinary team and the judiciary, providing case management, monitoring compliance of the participants in the treatment-based drug court program with court requirements, and providing program evaluation and accountability.

(5)(4)(a) The Florida Association of Drug Court Program Professionals is created. The membership of the association may consist of treatment-based drug court program practitioners who comprise the multidisciplinary treatment-based drug court program team, including, but not limited to, judges, state attorneys, defense counsel, ~~drug court~~ program coordinators, probation officers, law enforcement officers, community representatives, members of the academic community, and treatment professionals. Membership in the association shall be voluntary.

(b) The association shall annually elect a chair whose duty is to solicit recommendations from members on issues relating to the expansion, operation, and institutionalization of treatment-based drug court programs. The chair is responsible for providing on or before October 1 of each year the

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602 association's recommendations and an annual report to the
603 appropriate Supreme Court ~~Treatment-Based Drug Court Steering~~
604 committee or to the appropriate personnel of the Office of the
605 State Courts Administrator, and shall submit a report each year,
606 ~~on or before October 1, to the steering committee.~~

607 (6)(5) If a county chooses to fund a treatment-based drug
608 court program, the county must secure funding from sources other
609 than the state for those costs not otherwise assumed by the
610 state pursuant to s. 29.004. However, this does not preclude
611 counties from using treatment and other service dollars provided
612 through state executive branch agencies. Counties may provide,
613 by interlocal agreement, for the collective funding of these
614 programs.

615 (7) The chief judge of each judicial circuit may appoint
616 an advisory committee for the treatment-based drug court
617 program. The committee shall be composed of the chief judge, or
618 his or her designee, who shall serve as chair; the judge of the
619 treatment-based drug court program, if not otherwise designated
620 by the chief judge as his or her designee; the state attorney,
621 or his or her designee; the public defender, or his or her
622 designee; the treatment-based drug court program coordinators;
623 community representatives; treatment representatives; and any
624 other persons the chair finds are appropriate.

625 Section 8. Paragraphs (b) and (e) of subsection (5) of
626 section 910.035, Florida Statutes, are amended to read:

627 910.035 Transfer from county for plea and sentence.--

628 (5) Any person eligible for participation in a drug court
629 treatment program pursuant to s. 948.08(6) may be eligible to

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630 have the case transferred to a county other than that in which
631 the charge arose if the drug court program agrees and if the
632 following conditions are met:

633 (b) If approval for transfer is received from all parties,
634 the trial court shall accept a plea of nolo contendere and enter
635 a transfer order directing the clerk to transfer the case to the
636 county which has accepted the defendant into its drug court
637 program.

638 (e) Upon successful completion of the drug court program,
639 the jurisdiction to which the case has been transferred shall
640 dispose of the case pursuant to s. 948.08(6). If the defendant
641 does not complete the drug court program successfully, the
642 jurisdiction to which the case has been transferred shall
643 dispose of the case within the guidelines of the Criminal
644 Punishment Code ~~case shall be prosecuted as determined by the~~
645 ~~state attorneys of the sending and receiving counties.~~

646 Section 9. Subsections (6), (7), and (8) of section
647 948.08, Florida Statutes, are amended to read:

648 948.08 Pretrial intervention program.--

649 (6)(a) Notwithstanding any provision of this section, a
650 person who is charged with a felony of the second or third
651 degree for purchase or possession of a controlled substance
652 under chapter 893, prostitution, tampering with evidence,
653 solicitation for purchase of a controlled substance, or
654 obtaining a prescription by fraud; who has not been charged with
655 a crime involving violence, including, but not limited to,
656 murder, sexual battery, robbery, carjacking, home-invasion
657 robbery, or any other crime involving violence; and who has not

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658 | previously been convicted of a felony nor been admitted to a
659 | felony pretrial program referred to in this section is eligible
660 | for admission into a pretrial substance abuse education and
661 | treatment intervention program approved by the chief judge of
662 | the circuit, for a period of not less than 1 year in duration,
663 | upon motion of either party or the court's own motion, except:

664 | 1. If a defendant was previously offered admission to a
665 | pretrial substance abuse education and treatment intervention
666 | program at any time prior to trial and the defendant rejected
667 | that offer on the record, then the court or the state attorney
668 | may deny the defendant's admission to such a program.

669 | 2. If the state attorney believes that the facts and
670 | circumstances of the case suggest the defendant's involvement in
671 | the dealing and selling of controlled substances, the court
672 | shall hold a preadmission hearing. If the state attorney
673 | establishes, by a preponderance of the evidence at such hearing,
674 | that the defendant was involved in the dealing or selling of
675 | controlled substances, the court shall deny the defendant's
676 | admission into a pretrial intervention program.

677 | (b) While enrolled in a pretrial intervention program
678 | authorized by this section, the participant is subject to a
679 | coordinated strategy developed by a drug court team under s.
680 | 397.334(2). The coordinated strategy must include a protocol of
681 | sanctions that may be imposed upon the participant. The protocol
682 | of sanctions must include as available options placement in a
683 | secure licensed clinical or jail-based treatment program or
684 | serving a period of incarceration for noncompliance with program
685 | rules within the limits established for contempt of court. The

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686 coordinated strategy must be provided in writing to the
687 participant at the time the participant enters into a pretrial
688 drug court program.

689 ~~(c)(b)~~ At the end of the pretrial intervention period, the
690 court shall consider the recommendation of the administrator
691 pursuant to subsection (5) and the recommendation of the state
692 attorney as to disposition of the pending charges. The court
693 shall determine, by written finding, whether the defendant has
694 successfully completed the pretrial intervention program.

695 ~~(e)1.~~ If the court finds that the defendant has not
696 successfully completed the pretrial intervention program, the
697 court may order the person to continue in education and
698 treatment, which may include secure licensed clinical or jail-
699 based treatment programs, or order that the charges revert to
700 normal channels for prosecution.

701 ~~2.~~ The court shall dismiss the charges upon a finding that
702 the defendant has successfully completed the pretrial
703 intervention program.

704 (d) Any entity, whether public or private, providing a
705 pretrial substance abuse education and treatment intervention
706 program under this subsection must contract with the county or
707 appropriate governmental entity, and the terms of the contract
708 must include, but need not be limited to, the requirements
709 established for private entities under s. 948.15(3).

710 ~~(7) The chief judge in each circuit may appoint an~~
711 ~~advisory committee for the pretrial intervention program~~
712 ~~composed of the chief judge or his or her designee, who shall~~
713 ~~serve as chair; the state attorney, the public defender, and the~~

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~~program administrator, or their designees; and such other persons as the chair deems appropriate. The advisory committee may not designate any defendant eligible for a pretrial intervention program for any offense that is not listed under paragraph (6)(a) without the state attorney's recommendation and approval. The committee may also include persons representing any other agencies to which persons released to the pretrial intervention program may be referred.~~

~~(7)(8)~~ The department may contract for the services and facilities necessary to operate pretrial intervention programs.

Section 10. Section 948.16, Florida Statutes, is amended to read:

948.16 Misdemeanor pretrial substance abuse education and treatment intervention program.--

(1)(a) A person who is charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under chapter 893, and who has not previously been convicted of a felony nor been admitted to a pretrial program, is eligible for admission into a misdemeanor pretrial substance abuse education and treatment intervention program approved by the chief judge of the circuit, for a period based on the program requirements and the treatment plan for the offender, upon motion of either party or the court's own motion, except, if the state attorney believes the facts and circumstances of the case suggest the defendant is involved in dealing and selling controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in dealing or

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742 selling controlled substances, the court shall deny the
743 defendant's admission into the pretrial intervention program.

744 (b) While enrolled in a pretrial intervention program
745 authorized by this section, the participant is subject to a
746 coordinated strategy developed by a drug court team under s.
747 397.334(2). The coordinated strategy must include a protocol of
748 sanctions that may be imposed upon the participant. The protocol
749 of sanctions must include as available options placement in a
750 secure licensed clinical or jail-based treatment program or
751 serving a period of incarceration for noncompliance with program
752 rules within the limits established for contempt of court. The
753 coordinated strategy must be provided in writing to the
754 participant at the time the participant enters into a pretrial
755 drug court program.

756 (2) At the end of the pretrial intervention period, the
757 court shall consider the recommendation of the treatment program
758 and the recommendation of the state attorney as to disposition
759 of the pending charges. The court shall determine, by written
760 finding, whether the defendant successfully completed the
761 pretrial intervention program.

762 ~~(a)~~ If the court finds that the defendant has not
763 successfully completed the pretrial intervention program, the
764 court may order the person to continue in education and
765 treatment or return the charges to the criminal docket for
766 prosecution.

767 ~~(b)~~ The court shall dismiss the charges upon finding that
768 the defendant has successfully completed the pretrial
769 intervention program.

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(3) Any public or private entity providing a pretrial substance abuse education and treatment program under this section shall contract with the county or appropriate governmental entity. The terms of the contract shall include, but not be limited to, the requirements established for private entities under s. 948.15(3).

Section 11. Section 985.306, Florida Statutes, is amended to read:

985.306 Delinquency pretrial intervention program.--

(1)~~(a)~~ Notwithstanding any provision of law to the contrary, a child who is charged ~~under chapter 893~~ with a felony of the second or third degree for purchase or possession of a controlled substance under chapter 893; tampering with evidence; solicitation for purchase of a controlled substance; or obtaining a prescription by fraud, and who has not previously been adjudicated for a felony ~~nor been admitted to a delinquency pretrial intervention program under this section~~, is eligible for admission into a delinquency pretrial substance abuse education and treatment intervention program approved by the chief judge or alternative sanctions coordinator of the circuit to the extent that funded programs are available, for a period based on the program requirements and the treatment services that are suitable for the offender ~~of not less than 1 year in duration~~, upon motion of either party or the court's own motion. If the state attorney believes that the facts and circumstances of the case suggest the child's involvement in the dealing and selling of controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes by a

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798 | preponderance of the evidence at such hearing that the child was
799 | involved in the dealing and selling of controlled substances,
800 | the court shall deny the child's admission into a delinquency
801 | pretrial intervention program.

802 | (2) While enrolled in a delinquency pretrial intervention
803 | program authorized by this section, a child is subject to a
804 | coordinated strategy developed by a drug court team under s.
805 | 397.334(2). The coordinated strategy must include a protocol of
806 | sanctions that may be imposed upon the child. The protocol of
807 | sanctions must include as available options placement in a
808 | secure licensed clinical facility or placement in a secure
809 | detention facility under s. 985.216 for noncompliance with
810 | program rules. The coordinated strategy must be provided in
811 | writing to the child at the time the child enters the pretrial
812 | drug court program.

813 | (3)(b) At the end of the delinquency pretrial intervention
814 | period, the court shall consider the recommendation of the state
815 | attorney and the program administrator as to disposition of the
816 | pending charges. The court shall determine, by written finding,
817 | whether the child has successfully completed the delinquency
818 | pretrial intervention program.

819 | ~~(e)1.~~ If the court finds that the child has not
820 | successfully completed the delinquency pretrial intervention
821 | program, the court may order the child to continue in an
822 | education, treatment, or urine monitoring program if resources
823 | and funding are available or order that the charges revert to
824 | normal channels for prosecution.

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825 ~~2.~~ The court may dismiss the charges upon a finding that
826 the child has successfully completed the delinquency pretrial
827 intervention program.

828 (4)~~(d)~~ Any entity, whether public or private, providing
829 pretrial substance abuse education, treatment intervention, and
830 a urine monitoring program under this section must contract with
831 the county or appropriate governmental entity, and the terms of
832 the contract must include, but need not be limited to, the
833 requirements established for private entities under s.
834 948.15(3). It is the intent of the Legislature that public or
835 private entities providing substance abuse education and
836 treatment intervention programs involve the active participation
837 of parents, schools, churches, businesses, law enforcement
838 agencies, and the department or its contract providers.

839 ~~(2) The chief judge in each circuit may appoint an~~
840 ~~advisory committee for the delinquency pretrial intervention~~
841 ~~program composed of the chief judge or designee, who shall serve~~
842 ~~as chair; the state attorney, the public defender, and the~~
843 ~~program administrator, or their designees; and such other~~
844 ~~persons as the chair deems appropriate. The committee may also~~
845 ~~include persons representing any other agencies to which~~
846 ~~children released to the delinquency pretrial intervention~~
847 ~~program may be referred.~~

848 Section 12. This act shall take effect upon becoming a
849 law.